UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 13-8515-DLB

FILED by ___ D.C.
DEC 20 2013
STEVEN M. LARIMORE
CLERK U.S. DIST. CT.
S.D. OF FLA. - W.P.B.

UNITED STATES OF AMERICA,

v.

MO HAILONG,
a/k/a ROBERT MO,

Defendant.
_______________________________/

PRETRIAL DETENTION ORDER

The Court, pursuant to 18 U.S.C. § 3142, commonly known as the Bail Reform Act of 1984, hereby ORDERS Defendant, MO HAILONG, detained prior to trial. The Court specifically finds that no condition or combination of conditions will reasonably assure Defendant's appearance in court as required. The Court makes the following findings of fact and statement of reasons for the detention:

a) The nature and circumstances of the offense charged.

A Criminal Complaint out of the Southern District of Iowa charges Defendant with theft of trade secrets, in violation of 18 U.S.C. § 1832. If convicted, Defendant faces up to 10 years in prison, a $5,000,000 fine, and a substantial term of supervised release.

b) The weight of the evidence against the Defendant.

The weight of the evidence against the Defendant is substantial. The Court takes judicial notice of the information in the Criminal Complaint. The Government set forth the following evidence by proffer and through the testimony of FBI Agent Bryon Militello. Defendant is the Director of International Business of the Beijing Dabeinong Technology Group Company, an affiliate of DBN Group. In turn, DBN Group is a Chinese conglomerate with a corn seed subsidiary company, Kings Nower Seed (KNS). In 2011, the FBI began investigating Defendant's suspected involvement in the theft of U.S.-based trade secrets involving bio-engineered corn seed for transport to China. Generally speaking, the trade secrets consist of valuable intellectual property belonging to U.S. seed manufacturing companies concerning "inbred" or "parent" corn seeds that are designed to make corn more productive as a food source via resistance to drought, insects, and other sources of inefficiency. Such seeds are the product of significant financial investments and years of research.

The FBI was first tipped off in May 2011 when Iowa-based Pioneer Hi-Bred Corporation security personnel reported suspicious incidents in one of Pioneer's remote grower test fields containing valuable inbred corn seed. On May 2, 2011, Defendant and a KNS representative approached a grower who told them that the field contained corn seed. The next day, Defendant was observed on his knees in the same field with a KNS Vice Chairman sitting in a nearby car. When confronted by a field manager, Defendant claimed to work for the University of Iowa and said that he and the other individual were in Iowa to attend a conference. Further investigation revealed no such conference was scheduled. Using license plate information obtained by the field manager, Pioneer security traced Defendant's car to an airport rental company. The two-week rental was linked to Defendant's name and his Miami address.

In September 2011, a deputy sheriff encountered Defendant and two other males, including a KNS scientist and officer, near an Iowa farm field belonging to a contract grower for a major U.S. producer of bio-engineered corn. When questioned, Defendant told the deputy that the three men had flown into Chicago and were driving across the Midwest to look at crops. A field representative later confirmed that the unmarked Iowa farm field was being used to grow inbred test seed. On September 27, 2011, Defendant mailed 15 packages containing a combined total of 341.27 pounds of "corn samples" from an Iowa UPS store to his home in Boca Raton, Florida.

In February 2012, Defendant was in Iowa for activities incident to a visit by China's Vice-President. While there, Defendant toured a Pioneer research facility in Iowa and signed in using the alias "Hougang Wu, Chairman of Dalian Zhangzidao Fishery Group." The next day, Defendant attended an agricultural symposium using the same alias "Hougang Wu." Defendant also went to a sports bar to meet with a former Pioneer employee turned Chinese seed executive. The executive's spouse still worked for Pioneer as a corn geneticist researcher.

In April 2012, Defendant flew to Chicago, rented a car, and drove through farmland areas in Illinois and neighboring Indiana. He stopped at an Illinois farm advertising Pioneer seed product to inquire about corn and soybean seeds, explaining that he bought 40 acres land nearby and intended to plant there. Defendant left without buying anything or disclosing any information about himself. Defendant was later observed at a nearby farm in Monee, Illinois, which records show KNS bought in March 2012 for $600,000.

On at least two occasions in April and May 2012, Defendant made cash purchases of large amounts of corn seed. The stores that sold the seeds confirmed that Defendant had bought large quantities of seeds with cash over the past few years. One store owner acknowledged that it was improper for the store to sell Defendant the seeds because Defendant never signed a growing agreement governing his use of the seed, as is required by Pioneer's seed dealer

Case 1:13-cr-00147-SMR-CFB Document 20 Filed 01/24/14 Page 4 of 8

contracts. Such growing agreements are designed to protect against the possibility of a buyer taking steps, such as lab testing, to uncover the intellectual property contained within the seeds.

On May 1, 2012, after buying seeds at a store, Defendant was observed loading and unloading items from his rental car into a local storage locker and into a storage shed at the Monee farm owned by KNS. Over the next several days, Defendant was observed driving his rental car through rural Illinois and Indiana with two Chinese nationals who work for DBN/KNR. On May 11, 2012, the three individuals shipped five 25-lb boxes of "corn seed" from Illinois to an individual in Hong Kong, China. During a warranted search of the boxes, agents discovered 42 bags of corn seed with handwritten numbering the FBI believes to be a secret code system to identify the seeds.

For approximately one week in late August/early September, agents used court-authorized GPS tracking information and audio surveillance to gather information about the two DBN/KNR employees who were seen with Defendant in May. The two employees drove through rural Illinois in a rental car, stopping at various farm fields. In recorded conversations, the two employees discussed prior activity with Defendant involving: (1) collecting samples; (2) identifying U.S. seed company "parent" fields; and (3) stopping to get ears of corn to tag and categorize. The two also discussed "things go[ing] wrong" and how "they could treat us as spies" because "[t]hese are actually very serious offenses" like "trespassing [on] other people's private property…theft/larceny…violation of IP law." (Crim. Compl. ¶ 27). In one conversation, the two discussed someone's telling them what they were doing "is troublesome" and "[r]isky." When one employee asked: "Is it Lao Mo?"—believed by the FBI to be a reference to

Defendant—the response was "No" followed by an unintelligible statement and "my other half." The two also discuss getting "male parents" and "hybrids [that] are from a second cycle line."

In September 2012, when Defendant was again in Illinois, the FBI observed multiple boxes being moved by various individuals from cars into the Monee farm garage. At least one car was a rental, a later search of which turned up a plastic subway bag containing what appeared to be corn kernels, dirt, and corn cob debris; a napkin with a series of numbers; and loose corn kernels in the trunk. On September 30, 2012, in monitored conversations inside Defendant's rental car, Defendant and others discussed bags of "F1s" and how packages would be transported. In one conversation, Defendant instructed a DBN/KNR employee about how important it was to thoroughly clean the rental cars before returning them because he "did not want to leave any traceable marks or clues in the car." (Crim. Compl. ¶ 37). Defendant said he had washed cars in the past and is cautious because he's "[d]one it too many times—way too many times." (Id.)

During later searches of luggage belonging to two individuals destined for China who had been with Defendant, customs officials located microwave popcorn boxes that appeared factory-sealed but contained hundreds of small manila envelopes with suspected code numbers written on each one. Officials also found grocery bags labeled with numbers like "F1" with additional envelopes and napkins wrapped around individual corn kernels tucked inside packed clothing.

Customs officials also searched the car of another individual who had been with Defendant at a border crossing in Vermont and recovered 44 hidden grocery bags with numbers like "M3" and "F3" containing numbered manila envelopes with corn kernels. Officials also found a notebook with numerous GPS coordinates and a camera with hundreds of pictures of corn fields and U.S. corn seed production facilities. Upon being questioned, the individual driving the car said he bought the corn from Defendant. Since Defendant was flying domestically, his luggage was not searched.

Samples of the seeds recovered during the various searches were submitted for independent testing. Some samples were identified as likely being an inbred line of seed, while others were confirmed to be a either seed mix or from a hybrid line. One Pioneer China country manager has advised the FBI that Pioneer has determined that one of DBN's best-selling corn seed products in China uses an inbred line of seed that Pioneer developed.

c) Defendant's history and characteristics.

The Court takes judicial notice of the information in the Pretrial Services Report. Defendant is a Chinese citizen and permanent U.S. resident. His parents and all three of his siblings reside in China. He completed most of his education there and ultimately obtained a master's degree in thermal and energy science in 1993. Five years later, in 1998, Defendant first came to the United States to attend Kansas State University. In 2002, he earned a doctorate in mechanical engineering.

Defendant is married to a naturalized U.S. citizen who works as a regional manager for an unidentified import/export company. He, his wife, and their two minor children have lived in South Florida for the past decade. He has been variously affiliated with local universities during that time, including as an adjunct professor and a master student. Most recently, he reports having started his own import/export business, Dabeinong North America, Inc. Records indicate that the business was incorporated on January 1, 2013. Defendant is listed as the company's registered agent and sole officer. Records also indicate that Defendant is the registered agent and sole officer of DBN Technologies, LLC, an active company that was formed in July 2006.

Defendant has an extensive history of travel to China for business and pleasure. He has also traveled to Canada, Europe and Mexico for business purposes within the last ten years. He co-owns a Boca Raton home with a current market value of $210,394 and a mortgage balance of approximately $205,000. He is also the sole owner of over 32 acres of land in Iowa with a current market value of $57,900. He has an unencumbered 2008 Honda CR-V and individual and business checking accounts with a combined balance of nearly $129,000.

Defendant denies having any history of mental or emotional problems. He does not use alcohol or drugs. His criminal history consists of one arrest for battery in 2004. The incident involved his wife and the charge was ultimately nolle prossed.

d) The nature and seriousness of the danger to any person or the community that would be posed by Defendant's release, and the likelihood of Defendant's appearance in court if released.

The Court does not find that Defendant poses a danger to the community and is thus not detaining him on this basis. The Court does, however, find that no condition or combination of conditions will reasonably assure Defendant's appearance in court. The Court recognizes Defendant's status as a permanent resident and his ties to the United States, but cannot ignore the fact that he is the citizen of another country who travels on a foreign passport often and has strong family ties overseas.

More importantly, this is a serious case alleging industrial espionage, supported by evidence that has been gathered as part of a two-year FBI investigation. Contrary to Defendant's assertions, there is strong evidence of his involvement in the theft of valuable U.S.-based trade secrets and his full awareness of the illegality of stealing such proprietary information. In particular, the evidence shows that Defendant went to great lengths to conceal his systematic seed-related activities, including using alias information to tour a seed plant research facility and to attend an agricultural symposium and falsely claiming to work at the University of Iowa when caught in the field. Other strong evidence of Defendant's substantial efforts at concealment include his statements about washing rental cars and advising others to thoroughly clean such cars so as to not "leave any traceable marks or clues in the car." (Crim. Compl. ¶ 37). As one individual affiliated with these and similar concealment activities by Defendant stated in a monitored conversation, "[t]hey could treat us as spies." (Id. ¶ 27). Indeed.

Accordingly, it is ORDERED that Defendant is DETAINED. Defendant is committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. Defendant shall be afforded a reasonable opportunity to consult privately with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility in which Defendant is confined must deliver Defendant to the United States Marshal for the purpose of a court appearance.

DONE and ORDERED in Chambers at West Palm Beach in the Southern District of Florida, this 20th day of December, 2013.

DAVE LEE BRANNON
U.S. MAGISTRATE JUDGE